

LAW AND ECONOMICS

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*Paper delivered at the Royal Society Symposium 'The Urban Environment and Life', September 13, 1973**Tempora mutantur nos et mutantur in illis.*

People are selfish, law givers corrupt and the citizen in despair. Thus appears the world in our day. In this paper I discuss our arrangements for living together and preserving at least some of the more pleasant things for our children.

I take it that individuals will maximize their satisfactions by accumulating as many assets and resources as possible, reducing the ability of others to do so . . . that people will not deliberately foul their environment, but will not go to very much trouble to improve it unless they profit in some way . . . that views on desirable habitats differ between age groups, social classes, local groups, and over periods of time.

The results are conflict and contradictions. These may be resolved by the planning of all activities, directing all people in accordance with these plans; by allowing physical, mental and economic power to determine possession and enjoyment of resources; or by some consensus on the degree of planning and restraint of free enterprise.

I cannot review the noble ideas proposed by generations of philosophers and political scientists to lead mankind to terrestrial happiness or at least to immortal rewards. I can only note that none have secured the promised happiness of all mankind. This will not, of course, deter future philosophers from fashioning more plausible ideologies equally unlikely to solve the predicament of man.

Instead, I shall examine the state of affairs in contemporary Victoria, seeking to identify the social, economic and legal powers which contribute to the present distribution and enjoyment of resources, and venture some predictions on their composition during the next two or three decades.

Most productive resources are owned by individuals or groups who use them to further their

own interests, mainly to enlarge them and to make profits. These people reject direction and interference by the community or the State, claiming that their unfettered activities will lead to the most economic deployment of the scarce resources. Such entrepreneurial groups would also assert that profits will reward those who serve a genuine demand. This, in turn, will ensure sufficient and stable employment for those who do not command capital.

Urban land, used for housing rather than productivity, is owned by a multitude of house owners, land lords and the public authorities. Land for public services, roads, enjoyment and recreation is predominantly vested in local or State authorities. Until fairly recently, it was generally held that buying and selling of privately owned assets, whether productive or domestic, should be unrestrained. Supply and demand would determine price and, apart from short term fluctuations, equilibrium would prevail. As a concomitant, save for the broadest considerations of communal health and safety, anyone should be able to use his property as he thought fit. The desire to impress, and the condemnation of the neighbours, were thought to ensure reasonable standards of construction and care.

The provision of those services which needed resources beyond the capacity of the individual was delegated to co-operatives, local and State authorities. These services were funded through rates and taxes which were preferably designated according to their specific purposes. Users were meant to defray the cost of operation. The care of the poor was left to private charity, the protection of private property was the care of the State and its insurance of the owners.

Lately, however, things are changing. Industrial progress and development have led to explosive growth of the metropolis and some country

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towns. Real incomes have increased and led to general affluence. The number of entrepreneurs has declined; the wage earner is found in occupations previously followed largely as self-employment. Inequalities in assets and earnings, though not greater than before, are resented, and a general egalitarian norm is sought more widely. Workers rely on their employers to arrange their tasks, direct them in their execution and provide plant and amenities alike. This mentality has now spread to people's thoughts on how their domestic affairs should be arranged. They want to be told where they should live, what their houses are to be like, how they are to be financed; they look for somebody to provide water, gas, electricity, sewerage, schools, health services, age care and transport. Individual enterprise is demanded, the welfare state glorified.

This then, I believe, is the position we have reached: most people want to have their lives determined for them, their amenities supplied, and the education of their children, as well as health care and care in old age provided by a benevolent authority. If this be granted, bureaucracy, planning and restrictive legislation follow.

This leads, inevitably, to the setting of standards, e.g. in education, housing, medical care, etc., by theoretical experts who know what is good for others, but rarely either what they themselves or the people they plan for need or want. It leads to interminable research into the goodness and 'socio-politico-economic' status of the expert solutions, to facility for the initiated, adventurous and ruthless to manipulate supply and demand in resources likely to be encompassed in planning schemes. It brings about the emergence of verbally fluent individuals and groups who question the standards set, not in relation to the needs of the multitude, but by some aesthetic intellectual cerebration, and a pervasive attitude that a mysterious community will provide greater benefits than each puts into the common fund.

The contradictions amongst people created by their dependency complexes and their greed and individual aspirations, by their wish to benefit more from their membership of the community than the amount of their contribution to it, could lead to violence and sociological upset, unless very detailed regulations and ordinances prescribe communal interactions.

Until lately, the most potent laws ensured the possession and enjoyment of assets, independently of their mode of acquisition or the inconvenience imposed on others in their use. We now perceive a subtle change. Use and enjoyment of private property are restrained by the expertly set stan-

dards purporting to reflect the common good. Industry, commerce, high and low density housing are assigned their separate zones, local governments prescribe whether these buildings be stone, brick or timber, how far they have to be from footpaths and boundaries, whether they be permitted sheds, garages and swimming pools, and ensure that their design does not offend the surrounding uniformity. The authority of the local council is upheld and subjugated to the metropolitan planning authority and, ultimately, to the State and Commonwealth governments who try to provide grand strategies and frameworks within which the individual citizen can unfold his life in the stream of general progress towards equality and prosperity. The feasibility of this grand design is rarely questioned.

It is held axiomatically that individual action and decisions in our complex technological society must lead to deterioration of the environment, to restraint of healthy survival and to the lessening of vital enjoyment. Direction is, therefore, necessary. I could agree that almost any activity produces some pollution, insignificant in each instance, but cumulatively dangerous to the health of the community. The cost of reducing smoke, poisonous effluents, fumes, debris is seldom of benefit to the polluter. He is often unaware of their cumulative effects. Therefore, he will not do anything to remedy his offence unless he is forced to or is persuaded of his obligation by heightened awareness. We seem to have favoured legal regulation with its need for licensing and an army of inspectors. Evasion, pretence and even collusive bribery must result. Perhaps greater awareness could be achieved through education and example, leading to co-operation rather than compliance.

Poor sanitation, contaminated food, physical inactivity and abuse of alcohol and drugs tend to lower health and vitality of people. It is assumed that people generally will neglect their health unless they be forced to look after themselves. Once again, we rely on legislative direction rather than the provision of information and knowledge which would enthruse people to do for themselves what benefits them. Thus we have compulsory chest X-rays, fluoridation of water supply proposals, and an ambivalent attitude to advertising harmful substances. We carefully preserve the human body to an old age in which the will to live bows before the spare-part surgery and the artificial extension of living death.

Conurbation removes the ordinary citizen from the real food producer and interposes a chain of middlemen for the provision of the

necessities of daily life. The consumer's choice and appreciation of the goods offered declines in the supermarket economy. He is prone to exploitation and many opportunities for deceit and profitmaking arise. We respond by legislative direction. We have an elaborate set of food and drug regulations which specify additives according to their ability to produce cancers in carefully bred and selected rats. We prescribe the printing points of labels and set out the information to be conveyed. But nothing really serious is done to inform the consumer of the meaning and import of the protection afforded to him. Therefore, the manufacturer incurs the cost of complying with the multiplicity of regulations, duly passes it on to his customer, but seldom ensures that the intention of the law, the enlightenment of the consumer, is achieved.

In many other fields also, the scientist, sociologist, planner and the philosopher have persuaded the law giver, and often the citizen, that the natural instinct and enterprise of the individual are defective and that the sum of all happiness

is increased by reducing individual satisfactions.

Hence, it is no illusion if we see ourselves hedged in by a multitude of laws and ordinances designed to achieve some academic and often quite impractical social and economic design. Our frustration turns to impotent fury when we see the clever, knowing and well-established, take advantage of these very restraints and, manipulating and circumventing the procedures open to all, appropriate to themselves an undue share of assets and resources.

What then of the future? If we believe man to be intelligent, we should not impede his evolution with restrictions, commandments, ordinances and prescriptions. We should show instead, by example, how despicable greed, arrogance and the suppression of others, in the name of spurious law and order, really are. We should, thus, reinforce the attempts of young men and women everywhere to grow into free people, making their own judgements and being happy in the fulfilment of personal dignity. To do this, our lawgivers must abolish the worst legislative restraints and governmental direction of our lives.